IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 32040 of 2004(L)

PETITIONER:

SHAJI, AGED 42 YEARS,
S/O.DASON, RESIDING AT PARUVAKKAL HOUSE,
KADAPLATHURUTH KARA, VADAKKEKKARA VILLAGE,
PARAVUR TALUK.

BY ADV. SRI.V.S.CHANDRASEKHARAN

RESPONDENTS:

JOSEPH, AGED 68 YEARS,
S/O.JOSEPH, KANNAMPARAMBIL HOUSE,
EZHIKKARA VILLAGE, PARAVUR TALUK.

BY ADV. SRI.VIJAYAN MANNALY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 32040/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SUMMONS ISSUED BY THE SUB COURT NORTH PARAVUR.

EXT.P2: COPY OF I.A. NO.2679/04 IN O.S. NO.387/2003 DATED 13.9.2003

EXT.P3: COPY OF REJECTION ORDER DATED 13.9.2004

/TRUE COPY/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 32040 of 2004

Dated this the 31st day of May 2007

JUDGMENT

The defendant in a suit for money filed by the respondent is aggrieved by Ext.P3 order by which his application for enlargement of time for filing the written statement was rejected by the learned Subordinate Judge. Obviously one of the reasons which weighed to the learned Sub Judge for rejecting the application was that the court did not have power to enlarge time for filing the written statement beyond the period of 90 days of receipt of summons by the defendant. The issue is covered by a judgment of the Supreme Court in **Kailash v. Nanhku (2005 (2) KLT 623)**.

2. Ext.P3 is accordingly set aside and the petitioner is permitted to file his written statement within two weeks from today. If the petitioner files his written statement before the court below within two weeks from today, the court will receive the same, try and dispose of the suit after formulating issues on the basis of the said written statement. If the written statement

is not filed within two weeks as permitted above, the impugned order will stand confirmed.

PIUS C. KURIAKOSE,
JUDGE.

dpk